

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/197,506	GIOSCIA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles Chow	2685	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/4/2004.
2. ☒ The allowed claim(s) is/are 1,2,5, 7,10,13-15, 17,19-22,24-25 and 27-34.
3. ☒ The drawings filed on 23 November 1998 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>3/28/2005</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                          |
|   | 9. <input type="checkbox"/> Other _____.  |

*[Handwritten signature]*

*Office Action for Amendment  
Received on 11/4/2004*

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Ronal Kananen on 3/28/2005. Attorney has authorized to insert words, "at least a portion of said", to all independent claims 1, 5, 15, 22, at a position shown below:

**Claim 1**, in line 2 of last paragraph:

Transmitting a purchase signal to said provider indicating an order to purchase a recording of said broadcast audio programming that is indicated by said at least a portion of said contextual information being displayed substantially contemporaneously with said broadcast audio programming on said display device.

**Claim 5**, in line 3 of last paragraph:

a user input device for controlling transmission of said contextual information over said connection to said service provider and for generating requests to be transmitted to said service provider to purchase a recording of said particular audio programming indicated by said at least a portion of said contextual information being displayed substantially contemporaneously with said broadcast signal on a display device.

**Claim 15**, in line 2 of last paragraph:

transmitting a purchase signal to said provider indicating an order to purchase a

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recording of said audio programming that is indicated by said at least a portion of said contextual information being displayed substantially contemporaneously with said broadcast signal on a display device.

**Claim 22**, in line 2 of last paragraph:

means for transmitting at least a portion of said contextual information to a service provider to purchase a recording of said audio programming indicated by said at least a portion of said contextual information being displayed substantially contemporaneously with said broadcast signal.

***Allowable Subject Matter***

2. The following is an examiner's statement of reasons for allowance:

Claims 1-2, 5, 7, 10, 13-15, 17, 19-22, 24-25, 27-34 are allowable. Applicant has amended all the independent claims 1, 5, 15, 22, for this application, filed on 11/23/1998, with allowable features, the contextual information being displayed substantially contemporaneously with said broadcast audio programming on the display device, for the transmitting a purchase signal to said service provider indicating an order to purchase a recording of the broadcast audio programming that is indicated by said contextual information being displayed on the display, having the method for providing listeners with information about audio programming being digitally broadcast comprising the combining a data signal carrying contextual information and the associated audio programming; the broadcasting combined data and audio; the receiving of the combined data and audio from service provider, separating data and audio signals; the transducing into audio sound, displaying contextual information about audio programming; the storing at least a portion of said contextual

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information onto a removable memory medium, as shown in the independent claims. The dependent claims are also allowable due to their dependency upon the independent claims. The closest patent to **Takahisa et al. (US 5,491,838)** **fails to teach the transmit a purchase signal to service provider from his receiver 200**, although Tekahisa et al. (Takahisa) **closely teaches** the user interface 206 of 300 (Fig. 3) which contains a displayed menu-button 304 to accept user input, for requesting ordering information of the broadcast selected audio in col. 6, lines 46-51; the displaying of received data on display in col. 5, line 51-59; the hearing of music and accessing ordering information in next selection, col. 7, lines 43-51), the substantially contemporaneously with said broadcast audio programming on the display (the receiver demodulates transmitted data at the same time while demodulates, reproduces, audio from reproduction 202 in col. 5, lines 32-50, the whenever the selected music is played, the associated data information is transmitted for displaying on user' receiver in col. 5, lines 1-16; the demodulating detected program material and data stream and a user interface device for providing user with a menu of data options in col. 1, line 65 to col. 2, line 6).

**Akashi (US 2002/0152,878 A1)** teaches the ordering of desired music (Fig. 1-5, abstract, [0003, 0008-0012]). Akashi has a priority date, 4/13/2001, later than applicant's filing date 11/23/1998.

**Alwadish (US 5,214,792)** teaches the broadcast music piece with program material such as title, artist name, catalog number, abstract, the contextual information in Fig. 1-4; col. 2, lines 30-40; the hearing of the music piece and tune to broadcast station, and to store the encoded information data transmitted, the enabling listener to view simultaneously instructional text

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or song lyrics which music or song is broadcast, col. 2, lines 30-53; the transmitting of combined analog and digital information via broadcast transmitter 136, Fig. 5, the analog source select 104, digital source select 106, the switch 108, the FM stereo encode 134; the receiving combined data and audio signal, abstract, col. 2, line 34-48; col. 4, lines 37-53; the information decode 220, Fig. 6, the separating data from music piece, col. 8, lines 23-38, col. 8, lines 53-63; the storing program material in a detachable memory card, col. 2, col. 41-48; the displaying of contextual information 32a-32b, T/route 66, Bob Smith, LP01234, Fig. 1-4). Alwadish fails to teach the transmitting a purchase signal to the service provider indicating an order to purchase a recording of the broadcast programming that is indicated by the contextual information being displayed substantially contemporaneously with said broadcast audio programming on the display.

Other prior arts in below has been considered, but they fail to teach the above claimed features.

**Jackson (US 6,516,466)** teaches the audio programming distribution to the portable digital cellular device via tower 12 (Fig. 1-9, abstract, col. 3, lines 37-53, the digital broadcast to television at home, col. 5, lines 30-57; the user selection for song via LCD window, and transmits a signal to microwave cellular tower of the music selection, abstract, col. 3, line 61 to col. 4, line 13; the information being displayed on display device LCD 46. Jackson fails to teach the transmitting a purchase signal to the service provider indicating an order to purchase a recording of the broadcast programming that is indicated by the contextual information being displayed substantially contemporaneously with said broadcast audio programming on the display.

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**Bernard et al. (US 5,918,213)** teaches the interactive automated purchasing system for preview music, movie, abstract; the shipping address, the shipping information, for the order she placed, col. 3, line 63 to col. 4, line 7; the rush shipping and shipping, handling rule (col. 43, lines 15-54; col. 64, lines 23-30; col. 65 lines 19-22), the sending ordered item to customer (col. 14, line 53, provide items to customer 4420, Fig. 44; col. 64, lines 31-39), the determining of geographic location and album titles (col. 64, lines 40-51). Bernard fails to teach the transmitting a purchase signal to the service provider indicating an order to purchase a recording of the broadcast programming that is indicated by the contextual information being displayed substantially contemporaneously with said broadcast audio programming on the display.

**Otero (US 3,696,297)** teaches the demodulating of audio and data from broadcast channel (abstract, Fig. 1, col. 4, lines 32-50). Otero fails to transmit any signal from receiver 16, for the transmitting a purchase signal to the service provider indicating an order to purchase a recording of the broadcast programming that is indicated by the contextual information being displayed substantially contemporaneously with said broadcast audio programming on the display.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

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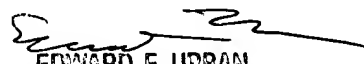
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Chow whose telephone number is (571) 272-7889. The examiner can normally be reached on 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles Chow *C.C.*

March 28, 2005.

  
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